

**AGENDA MEMO**

CITY COUNCIL MEETING DATE: NOVEMBER 7, 2007

DEPARTMENT: **PLANNING AND DEVELOPMENT**

ITEM DESCRIPTION: ROC-24755 - APPLICANT/OWNER: GERVASIA ENTERPRISE  
LIVING 1993 TRUST

---

**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION:** DENIAL. If Approved, subject to:

**Planning and Development**

1. Condition Number Five from Special Use Permit (SUP-17308) shall be removed.
2. Conformance to all other Conditions of Approval for Special Use Permit (SUP-17308) and all other related actions as required by the Planning and Development Department and Department of Public Works.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Review of Condition to remove Condition Number 5 of an approved Special Use Permit (SUP-17308) which stated that the sale of individual containers of any size of beer, wine coolers or screw cap wine is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted at 6595 Smoke Ranch Road, Suites #140, #145, and #150.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
02/19/03	The City Council approved a Site Development Plan Review (SDR-1385) for a proposed 10,000 square foot retail building; a waiver to allow a 15 foot front setback where 20 feet is required and a 15-foot rear yard setback where 20 feet is required; a waiver to allow no landscaping between the parking area and the building; a waiver of the requirement to have all parking in the rear or sides of the lot, and a waiver to allow 10 feet of landscaping along smoke ranch road where 15 feet is required on two acres adjacent to the south side Smoke Ranch Road, between Avery Drive and Steinke Lane. The Planning Commission had no recommendation. Staff recommended denial.
05/07/03	The City Council approved a request for a Variance (VAR-1763) allowing 45 parking spaces where 61 parking spaces are the minimum required on 2 acres adjacent to the south side Smoke Ranch Road between Avery Drive and Steinke Lane. The Planning Commission and staff recommended approval.
12/20/06	The City Council approved a Special Use Permit for the operation of a Beer/Wine/Cooler Off-sale establishment in an existing commercial tenant office structure located at 6595 Smoke Ranch Road, Suites #140, #145, and #150. The Planning Commission and staff recommended approval.
<b><i>Related Building Permits/Business Licenses</i></b>	
12/28/06	The applicant was issued business licenses (C05-02553 and C15-00355) on the subject property.
12/29/06	The applicant was issued a business license (L10-00267) on the subject property.
03/30/07	The applicant was issued business licenses (C20-02293 and G01-02294) on the subject property.
<b><i>Pre-Application Meeting</i></b>	
09/05/07	A pre-application meeting was held. Submittal requirements were discussed.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	0.61

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Single Family Residential	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)  R-PD10 (Residential Planned Development – 10 units per Acre)
South	Single Family Residential	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)
East	Day Care (Vacant)	SC (Service Commercial)	C-1 (Limited Commercial)
West	Offices	PF (Public Facilities)	C-V (Civic)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	N/A
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>			
A-O Airport Overlay District (140-Foot)	X		Y
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## ANALYSIS

The applicant is seeking to remove condition of approval number five of an approved Special Use Permit (SUP-17308). That condition required that the sale of individual containers of any size of beer, wine coolers or screw cap wine is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted.

The proposed removal of this condition is not considered appropriate. The business is located in a primarily residential area. The intensification of the use through the allowance of the sale of single packages of beer/wine/coolers does not fit in with the surrounding residential neighborhood. The addition of this intensified use to the area could promote vagrant or other non-desirable activity that could have a negative effect on the area. Denial of this request is recommended.

## **FINDINGS**

The removal of Condition Number Five from Special Use Permit (SUP-17308) related to the sale of single packages of beer/wine/coolers does not fit in with the surrounding residential neighborhood. Denial of this request is recommended.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

4

**ASSEMBLY DISTRICT**      N/A

**SENATE DISTRICT**      N/A

**NOTICES MAILED**      1,096

**APPROVALS**      0

**PROTESTS**      0